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Filing date: **12/10/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91188993
Party	Plaintiff Rolex Watch U.S.A., Inc.
Correspondence Address	Peter Cousins Gibney, Anthony & Flaherty, LLP 665 Fifth Avenue New York, NY 10022 UNITED STATES bfrenchman@gibney.com, pcousins@gibney.com, gkrugman@sughrue.com
Submission	Other Motions/Papers
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Signature	/Gary D. Krugman/
Date	12/10/2009
Attachments	201142 Reply Brief in Support of Motion for Extension of Time.pdf (4 pages) (97780 bytes) 201142 Email attachments to Reply Brief.pdf (2 pages)(76302 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ROLEX WATCH U.S.A., INC.,)	
)	
Opposer,)	
)	
vs.)	Opposition No. 91/188,993
)	Serial No.: 77/492,131
AFP IMAGING CORPORATION,)	
)	
Applicant.)	
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**OPPOSER'S REPLY BRIEF IN SUPPORT OF
ITS MOTION FOR AN EXTENSION OF TIME**

Opposer, by its attorneys, hereby files this short reply brief in support of its motion to extend due dates, which motion was filed and served on November 25, 2009. While Opposer's motion has been supported by a showing of good cause, and Opposer will not, in this reply brief, re-argue matters already argued in its original motion, the opposition to the motion filed by Applicant herein raises an issue which justifies and warrants the filing of this reply.

Specifically, while Applicant points out, in its opposition to the motion, that Applicant has already consented to two 30-day extensions of time for discovery, the fact remains that, at least as to the most recent extension of time, said extension was necessitated, at least in part, by Opposer's courteousness extended to Applicant in connection with scheduling the discovery deposition of Applicant's principal. Specifically, Opposer's attorney, on October 27, 2009, sent Applicant's an email message indicating that it wished to take Applicant's discovery deposition and asked Applicant to provide some convenient dates for Applicant and its counsel.

On November 5, 2009, counsel for Applicant responded and provided several dates during the weeks of December 7 and 14. The parties thereafter settled on December 15, 2009 as a mutually convenient date.

Copies of the October 27, 2009 and November 5, 2009 emails are enclosed herewith.

At the time of the email exchange noted above, the discovery period was set to close on December 2, 2009. All of the dates offered by Applicant were subsequent to the closing date of the discovery period as it was set at that time. While Opposer was happy to accommodate the schedule of Applicant's deponent, the fact that this accommodation has resulted in the deposition being taken the week before the Christmas holiday should not prejudice Opposer in its desire to possibly take follow up discovery, and to possibly retain an expert in the case, depending on the discovery elicited in the upcoming December 15, 2009 deposition.

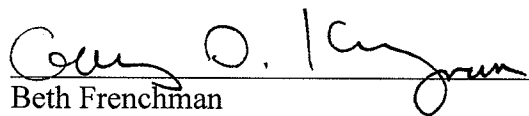
Accordingly, for the reasons stated herein, and in Opposer's motion papers, the motion should be granted with due dates, beginning with the due date for exchanging expert disclosures, being extended for thirty (30) days from the date of the Board's ruling granting this motion.

Respectfully submitted,

ROLEX WATCH U.S.A., INC.

Dated: December 10, 2009

By:



Beth Frenchman

Peter Cousins

GIBNEY, ANTHONY & FLAHERTY, LLC

665 Fifth Avenue, 11th Floor

New York, NY 10022

Telephone: (212) 688-5151

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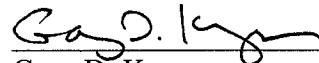
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Attorneys for Opposer
ROLEX WATCH USA, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing OPPOSER'S REPLY BRIEF IN
SUPPORT OF ITS MOTION FOR AN EXTENSION OF TIME has been served on Applicant
this 10th day of December, 2009 via email and first class mail, postage prepaid to:

Norman H. Zivin, Esq.
Hindy Dym
Cooper & Dunham, LLP
30 Rockefeller Plaza
20th Floor
New York, NY 10112
Attorneys for Applicant



Gary D. Krugman

From: Frenchman, Beth
Sent: Tuesday, October 27, 2009 10:36 AM
To: Norman Zivin; 'Hindy Dym'
Cc: Krugman, Gary; Cousins, Peter
Subject: Rolex v. AFP Imaging

Mr. Zivin,

We are considering taking the deposition of David Vozick, and would like to extend you the courtesy of getting back to us with dates over the next few weeks that would be convenient for you and the witness. We will therefore also be seeking a 30 day extension of discovery. Please let us know if you consent to this extension.

Regards,
Beth Frenchman-Gellman



**GIBNEY
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FLAHERTY** LLP

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12/3/2009

-----Original Message-----

From: Norman Zivin [mailto:NZIVIN@COOPERDUNHAM.COM]
Sent: Thursday, November 05, 2009 12:58 PM
To: Frenchman, Beth
Cc: Hindy Dym
Subject: Rolex Watch v. AFP Imaging

Mr. Vozick is available for a deposition on any of the following days: 12/ 7, 8, 9, 10, 14, 15 or 17, at about 1:00 PM. Please let me know which date you prefer.

Regards,

Norman H. Zivin
Cooper & Dunham LLP
30 Rockefeller Plaza
New York, New York 10112
(212) 278-0400
nzivin@cooperdunham.com

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